

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DANIEL BROOKS, KAREEM BACCHUS,  
SHARIEF BODDEN,

Plaintiffs,

MEMORANDUM AND ORDER

14-CV-6283 (RRM)

- against -

JOSEPH PONTE, *NYC DOC Commissioner*,  
NYC DEPARTMENT OF CORRECTIONS,  
WARDEN JANE DOE, *of GRVC*,  
SECURITY DEPUTY JANE DOE, *of GRVC*

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

Each of the Petitioners have sought leave to proceed *in forma pauperis*, and for the appointment of counsel. Their applications to proceed *in forma pauperis* (Doc. Nos. 2-4) are granted, and their motions for the appointment of counsel (Doc. Nos. 5-7) are denied. Though a civil litigant, including a habeas petitioner, “may request an attorney to represent any person unable to afford counsel” pursuant to 28 U.S.C. § 1915(e)(1), “whether the appointment of counsel is necessary” is within the Court’s discretion. *In re Martin-Trigona*, 737 F.2d 1254, 1260 (2d Cir. 1984). This determination turns on whether the person is indigent, is unable to obtain counsel, and has a legal position that “seems likely to be of substance.” *Hodge v. Police Officers*, 802 F.2d 58, 61 (2d Cir. 1986), *cert. denied sub. nom., Hodge v. Colon*, 502 U.S. 986 (1991). For the Court to appoint counsel, he must first make “at least a threshold showing of some merit.” *Johnston v. Genessee Cnty. Sheriff Maha*, 606 F.3d 39, 41 (2d Cir. 2010). Each of the petitioners has failed to demonstrate merit to his claims sufficient for the appointment of counsel. *See, e.g., Terminate Control Corp. v. Horowitz*, 28 F.3d 1335 (2d Cir. 1994). Counsel

will be appointed for petitioner only if this court finds, after further review of the petition, that appointment would be warranted.

The Clerk of Court is directed to mail a copy of this Order to each Petitioner, and note the mailing on the docket.

SO ORDERED.

Dated: Brooklyn, New York  
September 22, 2015

*Roslynn R. Mauskopf*

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ROSLYNN R. MAUSKOPF  
United States District Judge